

Notice of Allowability

Application No.

09/509,391

Examiner

Sheridan K Snedden

Applicant(s)

KRIJGSVELD ET AL.

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment file 3/19/04.
2. ☒ The allowed claim(s) is/are 36-38,40,49,51,56 and 57.
3. ☒ The drawings filed on 23 December 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. This Office Action is in response to Paper filed 19 March 2004. Claims 1-35, 48, 50 have been previously canceled. Claims 39, 41-47, 58-61 have been withdrawn. Claims 36, 37, 38, 40, 49, 51-7 are under examination.

2. All objections and/or rejections are withdrawn.

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gwen Wood on May 11, 2004.

4. The application has been amended as follows:

Claim 36 (currently amended): Isolated microbicidal peptide which exhibits bactericidal and/or fungicidal activity having an amino acid sequence consisting essentially of the amino acid sequence of TC-1 as given in Figure 1 (SEQ ID NO: 12), [optionally] with [the following] modifications selected from the group consisting of: [(a)] removing at least the two C-terminal amino acids alanine and aspartic acid [are removed;] and[/or (b)] providing the peptide [is provided] with an N-terminal His-tag-containing sequence.

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Claim 37 (currently amended): Isolated peptide as claimed in claim 36, wherein the amino acid sequence of TC-1 is extended at its N-terminus with at least one of the following selections of amino acids, given from N-terminus to C-terminus:

- (a) [one or more of]the 17 N-terminal amino acids of TC-2 in the sequence as given in Figure 1 (SEQ ID NO: 6) or fragments thereof; or
- (b) a methionine; or
- (c) a tyrosine; or
- (d) a methionine and [one or more of]the 17 N-terminal amino acids of TC-2 in the sequence as given in Figure 1 (SEQ ID NO: 6) or fragments thereof; or
- (e) a methionine and a tyrosine; or
- (f) a methionine and a tyrosine and [one or more of]the 17 N-terminal amino acids of TC-2 in the sequence as given in Figure 1 (SEQ ID NO: 6) or fragments thereof,

wherein, in the case in which a His-tag containing sequence is present, this sequence is located N-terminally of the peptides as defined in (e) or (f).

Claims 39, 41-47, 52-55, and 58-61 are canceled.

Conclusion

5. Claims 36, 37, 38, 40, 49, 51, 56, and 57 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan K Snedden whose telephone number is (703) 305-4843.

The examiner can normally be reached on Monday - Friday, 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (703) 308-2923. The fax phone number for regular communications to the organization where this application or proceeding is assigned is (703) 746-3975.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

SKS

May 12, 2004

SKS

A handwritten signature in cursive script, reading "Karen Cochrane Carlson". To the right of the signature is a small, stylized mark that appears to be "R.D."

KAREN COCHRANE CARLSON, PH.D
PRIMARY EXAMINER